

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHARLES STROUCHLER, SARA CAMPOS, by her
next friend ANA SIMARD, and AUDREY ROKAW,
by her next friend NINA PINSKY, individually and on
behalf of all others similarly situated,

Plaintiffs,

-against-

**NOTICE OF MOTION
FOR
PRELIMINARY
INJUNCTION**

NIRAV SHAH, M.D., as Commissioner of
the New York State Department of Health, and
ELIZABETH BERLIN, as Executive Deputy
Commissioner of the New York State Office of
Temporary and Disability Assistance, and
ROBERT DOAR, as Administrator of the
New York City Human Resources
Administration/Department of Social Services,

**Docket No.
12 CV 3216 (SAS)**

Defendants.
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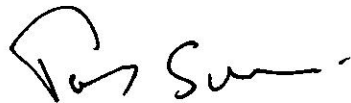
PLEASE TAKE NOTICE that upon the annexed declarations of LESLIE SALZMAN, dated May 10, 2012; VALERIE BOGART, dated May 9, 2012; NINA KEILIN, dated May 10, 2012; and RANDAL S. JEFFREY, dated May 14, 2012 and their attached exhibits; and the accompanying Memorandum of Law; and upon all the papers filed and proceedings had herein, the undersigned will move this Court at the United States Courthouse, Room 15C, 500 Pearl Street, New York, New York, on the 26th day of July, 2012 at 10:00 a.m. or as soon thereafter as counsel can be heard for an Order:

1. Granting a Preliminary Injunction, pursuant to Rule 65 of the Federal Rules of Civil Procedure, enjoining the City and State Defendants from reducing or terminating split-shift home care services to those New York City Medicaid recipients currently receiving these services; and further

2. Granting a Preliminary Injunction reinstating split-shift services to any New York City Medicaid recipient whose split-shift home care has been reduced or terminated since January 1, 2011, and further

3. Enjoining enforcement of 18 N.Y.C.R.R. § 5-5.14(a)(3) insofar as it denies split-shift home care to individuals who have a medical need for frequent night-time assistance from another person to maintain their health and safety at home, but whose needs include turning or repositioning (or other medical need besides feeding, ambulating, transferring or toileting), or whose needs for assistance with tasks are deemed to be “predictable or capable of scheduling,” or who are deemed to need only “some” assistance, even though they cannot perform the task safely on their own.

DATED: New York, New York
July 6, 2012



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